

## SECTION C

### SECTION C APPLIES IF THE PRICE OF THIS CONTRACT EXCEEDS \$10,000

#### **C.1 FAR 52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT (APR 1984)**

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

#### **C.2 FAR 52.222-26 EQUAL OPPORTUNITY (APR 1984)**

**NOTE: This clause is applicable unless all of the terms of the clause are exempt from the requirements of EO 11246. (See Federal Acquisition Regulation (FAR) 22.807 (a)):**

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Seller has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Seller shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Seller shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Seller agrees as follows:

(1) The Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(2) The Seller shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Seller shall post in conspicuous places available to employees and applicants for employment the notices to be provided by FERMCO that explain this clause.

(4) The Seller shall, in all solicitations or advertisements for employees placed by or on behalf of the Seller, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Seller shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by FERMCO advising the labor union or workers' representative of the Seller's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Seller shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Seller shall furnish to FERMCO all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed with 12 months preceding the date of award.

(8) The Seller shall permit access to its books, records, and accounts by FERMCO or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Seller's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Seller is not in compliance with this clause or any rule, regulation or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Seller may be declared ineligible for further FERMCO contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Seller as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(10) The Seller shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Seller shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Seller becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Seller may request the United States to enter into the litigation to protect the

interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

### **C.3 FAR 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (APR 1984)**

(a) Definitions. "Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Seller proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Seller's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Seller proposes to fill from regularly established "recall" lists.

"Openings that the Seller proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Seller proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause --

(1) Includes, but it not limited to, openings that occur in jobs categorized as --

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;
- (iv) Supervisory and nonsupervisory;
- (v) Technical; and
- (vi) Executive administrative, and professional

positions compensated on a salary basis of less than \$25,000 a year; and

(2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Seller proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Seller shall not discriminate against the individual because the individual is a special disabled or Vietnam Era veteran. The Seller agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam Era veterans without

discrimination based upon their disability or veterans' status in all employment practices such as --

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Seller agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings.

(1) The Seller agrees to list all suitable employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Seller's facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.

(3) The listing of suitable employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. The listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Seller from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Seller becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Seller is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Seller may advise the State system when it is no longer bound by this contract clause.

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) FERMCO's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in FERMCO's interest.

(d) Applicability.

(1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Seller proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

(1) The Seller agrees to post employment notices stating (i) the Seller's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through FERMCO.

(3) The Seller shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Seller is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam Era veterans.

(f) Noncompliance.

If the Seller does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts.

The Seller shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Seller shall act as specified by the Director or FERMCO to enforce the terms, including action for noncompliance.

#### **C.4 FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1988)**

(a) The Seller shall report at least annually, as required by the Secretary of Labor, on:

(1) The number of special disabled veterans and the number of veterans of the Vietnam era in the workforce of the Seller by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of special disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than March 31 of each year beginning March 31, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Seller may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the Seller has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Seller subject to the reporting requirements at 38 U.S.C. 2012(d) shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 2012 to identify themselves to the Seller. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 2012.

(f) Subcontracts. The Seller shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

#### **C.5 DOE PR 9-9.110 (c) REPORTING OF ROYALTIES (JUN 1979)**

If this contract is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to FERMCO, the Seller agrees to report in writing to the Patent Counsel (with notification by Seller to FERMCO) during the performance of this contract and prior to its completion or final settlement, the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which royalties are to be paid. The approval of DOE or FERMCO of any individual payments or royalties shall not stop FERMCO or the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

**C.6 DOE PR 9-9.104 NOTICE AND ASSISTANCE  
REGARDING PATENT AND COPYRIGHT INFRINGEMENT  
(JUN 1979)**

(a) The Seller shall report to FERMCO promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Seller has knowledge.

(b) In the event of any claim or suit against the Government or FERMCO on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Seller shall furnish to FERMCO when requested by the Contracting Officer or FERMCO, all evidence and information in possession of the Seller pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of FERMCO except where the Seller has agreed to indemnify Fluor Daniel, FERMCO or the Government.

(c) This clause shall be included in all subcontracts.

**C.7 FAR 52.215-1 EXAMINATION OF RECORDS BY  
COMPTROLLER GENERAL (APR 1984)**

(a) This clause applies if this contract exceeds \$10,000 and was entered into by negotiation.

(b) The Comptroller General of the United States or a duly authorized representative from the General Accounting Office shall until 3 years after final payment under this contract or for any shorter period specified in Federal Acquisition Regulation (FAR) Subpart 4.7, Contractor Records Retention, have access to and the right to examine any of the Seller's directly pertinent books, documents, papers, or other records involving transactions related to this contract.

(c) The Seller agrees to include in first-tier subcontracts under this contract a clause to the effect that the Comptroller General or a duly authorized representative from the General Accounting Office shall, until 3 years after final payment under the subcontract or for any shorter period specified in FAR Subpart 4.7 have access to and the right to examine any of the subcontractor's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract.

"Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

(d) The periods of access and examination in paragraphs (b) and (c) above for records relating to (1) litigation or settlement of claims arising from the performance of this contract, or (2) costs and expenses of this contract to which the Comptroller General or a duly authorized representative from the General Accounting Office has taken exception shall continue until such litigation, claims, or exceptions are disposed of.

**C.8 FAR 52.215-2 AUDIT-NEGOTIATION (DEC 1989)**

(a) Examination of costs. The Seller shall maintain-and FERMCO or representatives of FERMCO shall have the right to examine and audit-books, records, documents, and other evidence and accounting procedures and practices, regardless of form (e.g. machine readable media such as disk, tape,etc.) or type (e.g. data bases, applications software, database management software, utilities, etc.) sufficient to reflect property all costs claimed to have been incurred or anticipated to be incurred in performing this contract. This right of examination shall include inspection at all reasonable times of the Seller's plants, or parts of them, engaged in performing the contract.

(b) Cost or pricing data. If, pursuant to law, the Seller has been required to submit cost or pricing data in connection with pricing this contract or any modification to this contract, FERMCO or representatives of FERMCO shall have the right to examine and audit all of the Seller's books, records, documents, and other data regardless of form (e.g. machine readable media such as disk, tape, etc.) or type (e.g. data bases, applications software, database management software, utilities, etc.) including computations and projections related to proposing, negotiating, pricing, or performing the contract or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost of pricing data submitted, along with the computations and projections used.

(c) Reports. If the Seller is required to furnish cost, funding, or performance reports, FERMCO or representatives of FERMCO shall have the right to examine and audit books, records, other documents, and supporting materials, for the purpose of evaluating (1) the effectiveness of the Seller's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

(d) Availability. The Seller shall make available at its office at all reasonable times the materials described in paragraphs (a) and (b) above, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation, or for any longer period required by statute or by other clauses of this contract. In addition-

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement; and

(2) Records relating to litigation or the settlement of claims arising under or relating to this contract shall be made available until such litigation or claims are disposed of.

(e) Except as otherwise provided in FAR Subpart 4.7, Contractor Records Retention, the Seller may transfer computer data in machine readable form from one reliable computer medium to another. The Seller's computer data retention and transfer procedures shall maintain the integrity, reliability, and security of the original data. The Seller's choice of form or type of materials described in paragraphs (a), (b) and (c) of this clause affects neither the Seller's obligations nor FERMCO's rights under this clause.

(f) The Seller shall insert a clause containing all the terms of this clause, including this paragraph (f), in all subcontracts over \$10,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and FERMCO.